

The Strain of the New Forces

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(1) At first glance, the proposal to introduce into institutional operation new forces in key positions in administration and the courts sounds reasonable. At a second glance, also so. Greece has a problem with its institutions, a fact admitted even by the government of that country. There is no guarantee of correct implementation of EU law, including realization of difficult reforms, which must be undertaken in order to obtain necessary financial aid. The prospect of bankruptcy and collapse of the European order (including the Eurozone) represents a good justification for this proposal. The stakes are high. It is also known that the solutions to date have failed. Can there be a clearer situation in which the EU should support efforts aimed at improving the administrative efficiency with regard to the implementation of EU law? This is the case even more if we realize that art. 197 TFEU constitutes a supplement of the key principle of loyal cooperation (art. 4 sec. 3 TEU), by virtue of which Member States are obligated to engage in all general and particular measures in order to effectively perform obligations following from EU law.

(2) One may say that history likes to repeat itself. At the time of implementation of the Marshall Plan, of which Greece was one of the main beneficiaries, because of occurring difficulties the need arose to hire a significantly higher number of civil servants than in other countries covered by the Plan¹. One should of course remember that a key factor in the disorganization of the Greek State was the destruction caused by extensive war damage and by civil war, where Greece became the arena of confrontation between the West and communist forces. However, already then it was noted that “*the public administration was in no way fit or able to face the great challenges and tackle the problems of the time*”². P. Porter, a member of the staff implementing the Marshall Plan, stated that “*I have never seen an administrative structure which for sheer incompleteness and ineffectiveness was so appalling.*”³ One may thus risk the statement that the internal institutional weakness of the Greek state is nothing new.

(3) To continue with the example of the Marshall Plan, as stated by B. Machado, this plan proved successful “*principally because western European institutions were compatible with major reforms*”⁴. There thus exists a strong justification for the authors’ view that in order to achieve an effective introduction of reforms it is

¹ See P. Gkartzonikas, *The effects of the Marshall Plan in Greece, Turkey and Portugal*, Research paper published by the Greek Foreign Affairs Council (at <http://www.eind.gr/index.php/en/research-articles/item/1794-the-effects-of-the-marshall-plan-in-greece-turkey-and-portugal-by-paris-gkartzonikas?highlight=YTo2OntpOjA7czo0OiJYXJzaGFsbCI7aToxO3M6NDoicGxhbiI7aToyO3M6MjoiaW4iO2k6MztzOjEzOiJtYXJzaGFsbCBwbG9uIjtpOjQ7czoXNjoibWFyc2hhbGwgcGxhbiBpbli7aTo1O3M6NzoicGxhbiBpbli7fQ==>), p. 15.

² *Ibidem*, p. 14.

³ P. Porter, in 'Our Chances in Greece', 7 August 1947, Ethridge Papers, No.3842. See. P. Gkartzonikas, *op. cit.*, p. 14.

⁴ B. Machado, *In Search of a Usable Past: The Marshall Plan and Postwar Reconstruction Today*, George C. Marshall Foundation, Lexington, VA, 2007, p. 117.

not enough to offer Greece financial incentives, but what is necessary is assistance in building up strong institutional frameworks. In Poland, after 1989, the role of foreign experts was, alongside the restructuring of foreign debt, aid, *inter alia*, from the Phare Fund, the World Bank and the International Monetary Fund, one of the elements of the success of the reforms. However, the experts mainly performed an advisory function, preparing necessary elements of the reform of the state, which were then implemented by politicians. Another model seems at present to be partially carried out by Ukraine, which fills certain key positions with foreign officials. Perhaps one could draw certain conclusions from this experiment also for Greece.

(4) One needs to wonder whether, contrary to the authors' suggestions, one should not adopt a separate approach to positions in the court system. A judge, even one being the least favourable to implementing EU law, is independent and is subject to control under the instance system. The court authorities should observe independence. This is why it is difficult to imagine introducing new judges into the structure with the help of the EU (and in addition perhaps putting the existing judges into retirement). One should opt here for a strengthening of national verification structures (e.g. in access to the profession, promotions, control as regards compliance with the law), as well as intensive training. Also key is ensuring funds making possible easy and quick obtaining of information and expert knowledge in the scope of EU law (making available instruments of legal information, creation of expert centres within the court structure), or indeed organizational and procedural encouragement, e.g. to initiate prejudicial questions to the ECJ.

(5) A key question that should be asked is whether filling even 1000 key positions in the central administration and state companies with new people will change anything at all. The frameworks of functioning of society became so complex and require specialization that there will still be many places on the institutional map which these new forces will overlook, and which would be necessary for the success of the reforms. This will concern, for example, the majority of municipalities, which for the local community remain the institutions of first contact. This proposal should thus be perhaps an introduction to a much larger renewal of staff, which in view of the necessary scale must, however, come from within and follow from an understanding of the seriousness of the situation. In order for the institutions to improve, leaders must have a solid operational staff base.

(6) An issue of key importance will be undoubtedly the methods for finding the new forces. How to accurately find these well-educated and experienced Greek citizens with a high ethos and how to verify whether, following recruitment, they will operate in the expected manner? If it were not a difficult task, then the Greek institutions would most likely have already chosen such persons earlier. Undoubtedly, this

element of the puzzle will be crucial for the success of the undertaking. The recruitment methods themselves should be subject to ongoing evaluation regarding their effectiveness. It is important to control how the chosen staff is working and whether its work really improves the operation of the lead institutions. Only then, we will know whether the new forces were the right answer to the institutional problem of the Greek state. Also for consideration is the issue of putting the holders of the existing positions into early retirement. Their institutional memory may, in certain cases, prove to be necessary in order to put matters on the right tracks, while making use of them could facilitate the remedying process.

(7) If we look at art. 197 TFEU, we see that it lists rather traditional methods of support which the authors are actually rejecting (i.e. exchange of information, exchange of officials, support of training programs). In turn, Regulation 472/2013 speaks of groups of experts advising national bodies (art. 7 sec. 8). This legal basis (mentioned by the authors) will most likely incorporate, *inter alia*, assistance in seeking and selecting appropriate persons for key positions (at the request of the interested State), and ensuring technical or educational support. However, it will be difficult to acknowledge that the EU will have a legal basis for concluding an agreement under which making available key positions by the Greek state for new civil servants and the manner of their recruitment are agreed.

(8) A plan for an ‘invasion’ of a better kind of civil servants under the auspices of the EU may give rise – as rightly feared by the authors – to a charge of ‘foreign domination’. Regardless of the rightness of the presented proposal, we know that politicians who are geared towards short-term profit will not hesitate to take advantage of such a situation. We also know that society, being under a certain economic pressure, is susceptible to cheap tricks. Will a clever politician not point to the example of Hungary (where, for example judges were replaced by the Hungarian “new forces” by way of putting them into early retirement) and present it as an example of the authoritarian EU regime, in order to sow mistrust and gain support? Even if a significant part of the new forces are Greeks from the diaspora, in view of the participation of the EU publicity-seeking politicians will still be able to present it as outside interference, and perhaps even as an infringement of sovereignty. Submitting the new civil servants to a status proper for EU officials will favour them being treated as ‘outside forces’. In this way, the new forces may quickly become a major political strain and give the advantage to those who are most certainly not interested in an effective implementation of EU law.

(9) It seems therefore that hiring new forces should be done exclusively based on internal decision and the procedures of the Greek State. For a better outcome of the operation, the EU should enter this scenario as discreetly as possible. Assistance in this scope should have a technical, though multi-aspect, character. A

very important element, independent of the agreement concluded with the Greek government in this regard, will be the manner in which the proposal is presented to society at large. The narration concerning it must match the expectations of society and be well profiled as regards sensitive elements, in particular those which may be used by populist forces. Once again, referencing history, one should remember, as B. Machado writes, “*all the Marshall Plan can remind us in such altered domestic and international contexts is not to forget what once informed its formulation and implementation, namely, that economics, politics and psychology are inseparable in building support at home and in rebuilding other nations abroad*”⁵

(10) However, as the authors write, it is no consolation that “the current Greek elites have not offered sufficient evidence of their willingness and ability to reform the state”. Intervention and assistance from the outside is useless if the Greek elites, and through them society – do not understand that reforms lie in their interest and the delivery of their liturgy (λειτουργία) is, however, necessary. Another way to understand this will be a certain kind of breakdown, which, in a painful manner, will serve as a reminder of this necessity. Realisation of reforms will be possible and effective if above all the interests of the Greek elites, the EU and the remaining Member States all coincide. If this happens, one can only hope that it will prove sufficient to overcome the difficulties Greek institutions have to face.

⁵ B. Machado, *op. cit.*, p. 117.